

Message Text

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ACTION IO-10

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TAGS: PORG, AORG, PDIP, UN, AU

SUBJECT: ACTIVITY BY COMMITTEE OF THE WHOLE DURING PERIOD

FEB 26-MAR 3: UN 1975 RSIO CONFERENCE, VIENNA

REF: VIENNA 1786

SUMMARY: IN FOUR DAYS DEBATE, FROM FEB. 26 THROUGH MAR 3, COMMITTEE OF WHOLE COMPLETED WORK ON ALL ARTICLES OF PART III AND ANNEX, WITH EXCEPTION OF A. E AND O. FIRST ARTICLE 72, OF PART IV ALSO ADOPTED. ACTIONS TAKEN ON ARTICLES 59 THROUGH 72 WERE PARTIALLY IN FAVOR OF WEO-SPONSORED PROPOSALS AND IMPROVEMENT OVER RESULTS IN EARLIER PORTION OF PART III. COMMITTEE HAS CONTINUED TO ACCEPT SOV BLOC BROADENING OF SCOPE OF ANNEX ALTHOUGH OCCASIONALLY GRANTING TO WEO FAVORABLE DECISIONS IN THIS PART. END SUMMARY.

1. ARTICLE 59 (PERSONAL INVIOABILITY) WAS DEBATED FEB. 26 AND 27 IN CONJUNCTION WITH QUESTION OF ANNEX (SEE REFTEL). COMMITTEE REJECTED UK AMENDMENT WHICH WOULD HAVE ELIMINATED REFERENCE TO PERSONAL INVIOABILITY AND HIGHLIGHTED FUNCTIONAL NATURE OF IMMUNITY

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ACCORDED. VOTE WAS 13(US-)-36(SOVBLOC, LA'S, SPAIN)-11.

UKRAINE AMENDMENT SIMILAR TO ONE ACCEPTED FOR ARTICLE 28 WAS ADOPTED BY 36 (SOVBLOC, ARABS, LA'S, TURKEY)-9(US-VENEZUELA, UK)-15(FRANCE). IT REQUIRES PROSECUTION AND PUNISHMENT OF THOSE RESPONSIBLE FOR ATTACKS AGAINST DIPLOMATS. IVORY COAST MADE ORAL AMENDMENT TO ADD WORDS QUOTE IN PARTICULAR UNQUOTE SO THAT DIPLOMATS SHALL NOT BE LIABLE IN PARTICULAR TO ANY FORM OF ARREST OR DETENTION. IVORY COAST REP ARGUED THAT THIS WOULD BROADEN SCOPE OF IMMUNITIES WHILE MOST WEO'S PRIVATELY VIEWED AMENDMENT AS ESSENTIALLY MEANINGLESS. AMENDMENT PASSED 34 (SOVBLOC, UK, FRANCE)-3-21(US). ARTICLE AS WHOLE WAS ADOPTED 29-2(UK)-19(US).

2. ARTICLE 60 (INVIOABILITY OF PRIVATE ACCOMMODATION AND PROPERTY) HAD THREE AMENDMENTS SUGGESTED. UKRAINE CONTINUED TO PRESS IDEA OF PROSECUTION AND PUNISHMENT FOR ATTACKS AGAINST EVEN PRIVATE ACCOMMODATIONS BUT, AFTER OPPOSITION FROM US, VENEZUELA AND PERU, SOVIETS WITHDREW THIS AMENDMENT. US PROPOSED AMENDMENT TO DELETE REFERENCE TO INVIOABILITY OF PRIVATE ACCOMMODATIONS AND RECEIVED STRONG SUPPORT FROM AUSTRIA AND ITALY BUT OBJECTIONS FROM PERU, VENEZUELA, MEXICO. UK DEL THEN SUGGESTED ORAL AMENDMENT WHICH WOULD GRANT IMMUNITY ONLY TO ACCOMMODATIONS OWNED OR LEASED BY DELS. ISRAELI DEL SUGGESTED IDEA OF OWNED OR LEASED ON BEHALF OF DEL. CAMEROON AND SWEDISH DELS OPPOSED ALONG WITH SOVIETS. US AMENDMENT WAS DEFEATED 10-29-15. UK-ISRAELI AMENDMENT WAS REJECTED BY 17(US)-26-11 AND ILC TEXT WAS APPROVED BY 38-11(US, UK, SWITZERLAND, FRANCE, AUSTRIA)-6.

3. ARTICLE 61 (IMMUNITY FROM JURISDICTION) AROUSED MOST DEBATE ON SUBPARA D CONCERNING ABSENCE OF IMMUNITY FOR CIVIL ACTIONS RE AUTO ACCIDENTS. DUTCH DEL INTRODUCED MAJOR REWRITE OF ARTICLE WHICH PLACED HEAVY EMPHASIS ON FUNCTIONAL ASPECT OF IMMUNITIES. PAKISTAN DEL PROPOSED AMENDMENT TO DELETE INCLUSION OF CIVIL ACTIONS FOR AUTO ACCIDENTS FROM LIST OF THOSE EXCEPTIONS TO GENERAL IMMUNITIES. BOTH SWISS AND ARGENTINE DELS PROPOSED SUBAMENDMENTS TO DUTCH TEXT. SWISS AMENDMENT LIMITED OFFICIAL USE

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GAVE DELS FULL IMMUNITY FROM CRIMINAL JURISDICTION BUT ONLY FUNCTIONAL IMMUNITY FROM CIVIL JURISDICTION. ARGENTINE AMENDMENT QUALIFIED CIVIL IMMUNITY IN CASE OF ACCIDENTS TO APPLY ONLY WHEN DAMAGES NOT RECOVERABLE FROM INSURANCE. OMAN, TURKEY, PHILIPPINE AND RUMANIAN DELS SPOKE IN FAVOR OF PAKISTAN AMENDMENT. US SPOKE AGAINST ILC TEXT AS CREATING PRIVILEGED CLASS AND ALSO OBJECTED TO PAKISTAN AMENDMENT. IN THIS INSTANCE

FOR ONCE, SOVIETS TOOK REASONABLE POSITION (FROM OUR POINT OF VIEW) AND ALSO OBJECTED TO PAKISTAN AMENDMENT. THEY HOWEVER DID OBJECT TO NETHERLANDS AMENDMENT. LA'S IN THIS INSTANCE DID NOT OPPOSE MAJOR REWRITE OF ILC DRAFT. PARA ONE OF NETHERLAND AMENDMENT PASSED 29 (US, ARGENTINA, VENEZUELA, MOST WEO)-23(SOVBLOC, SPAIN)-15. PARA 5 CONCERNING CIVIL LIABILITY FOR ACCIDENTS WAS APPROVED 33 (US, LA'S)-21 (SOVBLOC, TURKEY, PAKISTAN)-14 (SPAIN) AND AMENDMENT AS NEW ARTICLE WAS ADOPTED 31 (US) -20 (SOVBLOC, SPAIN,)-17 (CANADA, FRANCE). PAKISTAN AMENDMENT THUS FELL IN LIGHT ACCEPTANCE OF DUTCH

TEXT.

4. ILC TEXT OF ARTICLE 62 (WAIVER OF IMMUNITY) WAS APPROVED BUT JAPANESE DEL SUGGESTED THAT SIMILAR PARA BE INCLUDED AS WAS ACCEPTED FOR ARTICLE 31. THIS SENTENCE WAS ALL THAT WAS LEFT OF EARLIER UK AMENDMENT AND STATES THAT P&I'S ARE NOT ACCORDED FOR PERSONAL BENEFIT. SOVIET BLOC WANTED LANGUAGE TO GO INTO PRE-AMBLE. US DEL STRESSED THAT HIS DEL PREFERRED REF TO DUTY TO AWIVE WHERE POSSIBLE. CHAIR FINALLY RULED THAT THERE WAS NO OPPOSITION TO IDEA CONTAINED IN JAPANESE AMENDMENT AND THAT DRAFTING COMMITTEE SHOULD DECIDE WHERE BEST TO PLACE.

5. ILC TEXT OF ARTICLE 63 (EXEMPTION FROM SOCIAL SECURITY LEGISLATION) WAS ALSO ACCEPTED AS PROPOSED. CANADIAN DEL CONSIDERED ARTICLE UNREALISTIC AND UN-NECESSARY WHILE DUTCH DEL TOOK OPPOSITE TACK. ARTICLE WAS APPROVED 55(US)-1 (CANADA)-6.

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6. ARTICLE 64 (EXEMPTION FROM DUES AND TAXES) WAS AMENDED ON PROPOSITION BY CANADIAN DEL WHO ADDED WORDS QUOTE TO EXTEND POSSIBLE UNQUOTE, QUALIFYING GRANTING OF CERTAIN TAX EXEMPTIONS. CANADIAN AMENDMENT WAS APPROVED 30 (US)-20(SOVBLOC, AF'S)-15. FRENCH DEL MADE

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ORAL AMENDMENT AT LAST MINUTE TO DELETE REFERENCE TO IMMOVABLE PROPERTY IN CONNECTION WITH CERTAIN STAMP DUTIES AND FEES. ILC LANGUAGE IN THIS CONNECTION WAS RETAINED 23(US)-13 (FRANCE)-13 IN CONFUSED VOTE. ARTICLE 64 AS AMENDED WAS APPROVED 53(US)-0-12.

7. ARTICLE 65 (EXEMPTION FROM PERSONAL SERVICES) WAS SENT TO DRAFTING COMMITTEE WITHOUT DISCUSSION. ARTICLE 66 (EXEMPTION FROM CUSTOMS DUTIES AND INSPECTION) HAD AMENDMENT SUGGESTED BY FRANCE TO REPLACE WORD OFFICIAL IN 1(A) BY WORD ADMINISTRATIVE AND TO QUALIFY 1(B) BY STIPULATION RESTRICTING EXEMPTION TO FIRTS ENTRY TO ATTEND MEETING. FIRST PART OF AMENDMENT REJECTED 12 (WEO)-20(SOVBLOC)-29 (US SOME LA'S)-LARGELY DUE TO ITS INCONSEQUENTIALITY-WHILE SECOND PART ADOPTED 20(US,WEO)-18-23. AMENDED ARTICLE PASSED 41 (US, WEO)-0-19.

8. DEBATE ON ARTICLE 67 (PRIVILEGES AND IMMUNITIES OF OTHER PERSONS) DEALT PRIMARILY WITH UK PROPOSAL TO LIMIT P&I FOR FAMILY MEMBERS OF DELEGATION AND OF DIPLOMATIC, ADMINISTRATIVE AND TECHNICAL STAFF TO THOSE ENUMERATED IN ARTICLES 65 AND 66 PARA 1(B) AND LIMITED OFFICIAL USE

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TO CONSOLIDATE WITHIN PARA 1. REFS TO FAMILY MEMBERS. PERU SUBMITTED ORAL SUB-AMENDMENT TO HAVE ARTICLES CITED IN UK AMENDMENT TO PARA 1 REPLACED BY ARTICLES 59,61,65 AND 66 PARAS 1(B) AND 2. PERUVIAN PROPOSAL PASSED 36-1(US)-23,

AS DID UK AMENDED PARAS 1 AND 2 WITH, RESPECTIVELY, 26-12-23(US) AND 22(US)-20-18 VOTES. UK ALSO PROPOSED ORAL AMENDMENT TO PARA 3 TO HAVE SERVICE STAFF ENJOY SAME FUNCTIONAL IMMUNITY AS ADMINISTRATIVE AND TECHNICAL STAFF, WHICH WAS ADOPTED 20(US)-17-22. FRG PUT FORTH AMENDMENT WHICH PROHIBITED STAFF MEMBERS DISCUSSED IN PARAS 2 AND 3 FROM ENJOYING P&I CITED THEREIN IF THEY ARE NATIONALS OR PERMANENTLY RESIDENT IN HOST STATE. THIS PASSED 55(US)-0-4. US SUBMITTED AMENDMENT TO DELETE ENTIRE ARTICLE BUT WITHDREW IT DURING INTRODUCTION DUE TO ASSURED UNFAVORABLE OUTCOME. ARTICLE AS WHOLE ADOPTED 32-11(US)-20.

9. BOTH ARTICLES 68 (NATIONALS OF THE HOST STATE AND PERSONS PERMANENTLY RESIDENT IN THE HOST STATE) AND 70 (END OF THE FUNCTIONS OF THE HEAD OF DELEGATION OR ANY OTHER DELEGATE OR MEMBER OF THE DIPLOMATIC STAFF) WERE ADOPTED WITHOUT VOTE. DURING BRIEF CONSIDERATION ARTICLE 69 (DURATION OF PRIVILEGES AND IMMUNITIES), ITALIAN PROPOSAL TO DELETE WORDS IN PARA 1 QUOTE IF ALREADY IN ITS TERRITORY UNQUOTE WAS DEFEATED 5-32-11(US); ILC TEXT ADOPTED 47(US)-0-2. FOR ARTICLE 71 (PROTECTION OF PREMISES, PROPERTY AND ARCHIVES), AUSTRIANS PROPOSED THAT ASAP BE SUBSTITUTED FOR PHRASE QUOTE WITHIN A REASONABLE TIME UNQUOTE IN PARA 1 SO AS TO ALIGN ARTICLE WITH CHANGE PREVIOUSLY MADE TO ARTICLE 41. BOTH AMENDMENT AND ARTICLE ADOPTED WITHOUT VOTE.

10. ARTICLE 72 (NATIONALITY OF THE MEMBERS OF MISSION OR THE DELEGATION). GUATEMALA, HOLY SEE AND SWITZERLAND SUBMITTED AMENDMENT HAVING EFFECT OF KEEPING IN FORCE LANGUAGE OF OLC SECOND SENTENCE WITH RESPECT TO MISSIONS, BUT MODERATING IT WITH RESPECT TO DELEGATIONS TO SAY THAT CONSENT SHALL BE ASSUMED IF STATE CONCERNED HAS BEEN NOTIFIED OF APPOINTMENT AND HAS NOT OBJECTED. SPANISH PROPOSAL TO DELETE ILC SECOND SENTENCE, THEREBY REMOVING CONSENT PROVISION ENTIRELY, LIMITED OFFICIAL USE

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WITHDRAWN IN DEFERENCE TO THREE-POWER COMPROMISE AMENDMENT. REVISED TEXT ADOPTED 53(US)-0-11. US NOTED AFTER VOTE THAT IT SUPPORTED REVISED ARTICLE ON ASSUMPTION THAT NOTIFICATION REQUIRED WITH RESPECT TO DELEGATIONS WOULD BE TIMELY AND INFORMATION COMPLETE.

11. ANNEX ARTICLES M, P, R, S, T, V, W, X, B, C, D, F AND G WERE ADOPTED IN COMMITTEE DURING WEEK (REFTEL), AS WERE F(BIS), H, H(BIS), I, L, NO, O AND U ON MAR. 3. IN GENERAL THESE ARTICLES WERE AMENDED ALONG LINES PROPOSED BY SOVIETS TO GIVE OBSERVER DELS ATTRIBUTES OF PARTICIPATING

DELEGATIONS. SPANISH DEL SUGGESTED SEVERAL ORAL AMENDMENTS WHICH ATTEMPTED TO FURTHER EQUATE LANGUAGE OF ANNEX WITH THAT OF PART III SO THAT SOVIET LINE WAS CARRIED REDUCTIO AD ABSURDUM, E.G., NEW SOVIET ARTICLE F(BIS) WHICH WOULD PERMIT DESIGNATION OF "ACTING HEAD" OF OBSERVER DEL. IN ARTICLE L (FREEDOM OF COMMUNICATION) COMMITTEE ADOPTED BY CLOSE ROLL CALL VOTE UK PROPOSAL IDENTICAL TO THAT ACCEPTED FOR ARTICLE 27 BUT LATER REJECTED FOR 58, WHICH WOULD PERMIT INSPECTION OF DELEGATION POUCH UNDER SPECIFIED CONDITIONS. VOTE WAS TIGHT 26(US)-25-14. DURING DEBATE ON ARTICLE N (INVIOABILITY OF ACCOMMODATION AND PROPERTY) UK SUCCEEDED IN WELL-EXECUTED PARLIAMENTARY MOVE IN HAVING ITS AMENDMENT, AN IMPLIED CONSENT IN CASE OF DISASTER PROVISION SIMILAR TO THAT ACCEPTED FOR ARTICLES 23 AND 54, MOVED AS ORAL SUB-AMENDMENT OF SOVIET PROPOSAL WHICH SOUGHT TO MAKE INVIOABILITY ABSOLUTE. UK MOVE ENSURED VOTE ON ITS PROPOSAL PRIOR TO SOVIET ONE (OVER LATTER'S STRENUOUS OBJECTIONS), WITH RESULT THAT UK PROPOSAL ADOPTED AS WELL AS SOVIET'S. US DEL HAS VOTED AGAINST ALL SOVIET AMENDMENTS AND ABSTAINED ON ALL ARTICLES OF ANNEX WITH EXCEPTION OF ARTICLE M WHICH US OPPOSED. HUMES

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